

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**STATE OF OKLAHOMA, ex rel. W.A.
DREW EDMONDSON, in his capacity as
ATTORNEY GENERAL OF THE
STATE OF OKLAHOMA AND
OKLAHOMA SECRETARY OF THE
ENVIRONMENT C. MILES TOLBERT,
in his capacity as the TRUSTEE FOR
NATURAL RESOURCES FOR THE
STATE OF OKLAHOMA**

PLAINTIFFS

v.

CASE NO.: 05-CV-00329 GKF-SAJ

**TYSON FOODS, INC., TYSON
POULTRY, INC., TYSON CHICKEN,
INC., COBB-VANTRESS, INC.,
AVIAGEN, INC., CAL-MAINE FOODS,
INC., CAL-MAINE FARMS, INC.,
CARGILL, INC., CARGILL TURKEY
PRODUCTION, LLC, GEORGE'S,
INC., GEORGE'S FARMS, INC.,
PETERSON FARMS, INC., SIMMONS
FOODS, INC. and WILLOW BROOK
FOODS, INC.**

DEFENDANTS

DEFENDANTS' NOTICE OF ADVICE TO THE COURT

Defendants Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., Cobb- Vantress, Inc., Simmons Foods, Inc., Willow Brook Foods, Inc., Cal-Maine Foods, Inc., Cal-Maine Farms, Inc., George's, Inc., George's Farms, Inc., Peterson Farms, Inc., Cargill Turkey Production, LLC and Cargill, Inc., (collectively, "Defendants") hereby submit the following advice to the Court regarding status of discussions with Plaintiffs concerning their standing to pursue certain claims in this action. Defendants submit the following:

1. On March 12, 2007, Defendants filed their Motion for Partial Judgment as a Matter of Law Based on Plaintiffs' Lack of Standing ("Defendants' Motion") [DKT #1076].

2. On March 30, 2007, Plaintiffs filed their response to Defendants' Motion ("Plaintiffs Response") [DKT #1111] in which Plaintiffs made certain concessions regarding their standing and the scope of the claims they are pursuing in this action.

3. On April 13, 2007, Defendants filed their reply to Plaintiffs' Response [DKT # 1128] and requested the Court enter an order that embodies the concessions made in Plaintiffs' Response.

4. On June 15, 2007, this Court heard oral argument on Defendants' Motion and Defendants pointed out to the Court that Plaintiffs, in their brief filed with the Court and during argument on Defendants' Motion, conceded certain facts regarding their standing to pursue certain claims in this action. At the June 15 hearing, the Court inquired as whether Plaintiffs and Defendants had conferred regarding a stipulation between the parties memorializing the concessions and the parties responded in the negative but agreed to discuss a stipulation. *See* Hrg. Transcr., June 15, 2007, p. 136, line 17 through p. 137, line 7.

5. During a hearing conducted on July 5, 2007, counsel for Defendants and counsel for Plaintiffs advised the Court that the parties would confer on a stipulation addressing all standing issues except for the *parens patriae*/private property issues which the Court took under advisement at the end of the June 15 hearing, and that the parties would submit an agreed stipulation or proposed order before the Court issues its ruling on the *parens patriae*/private property issues.

6. Defendants have provided to Plaintiffs a proposed stipulation and have requested a response and a conference and Plaintiffs have failed to provide either. *See* Exhibit 1 attached hereto and made a part hereof.

7. The Court is set to hear additional argument on Defendants' Motion on January 9, 2008.

8. Defendants advise the Court of this unresolved issue and submit herewith their proposed Order Regarding Standing of Plaintiffs. Defendants request entry of the proposed order prior to the January 9, 2008, hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 28th day of December, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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